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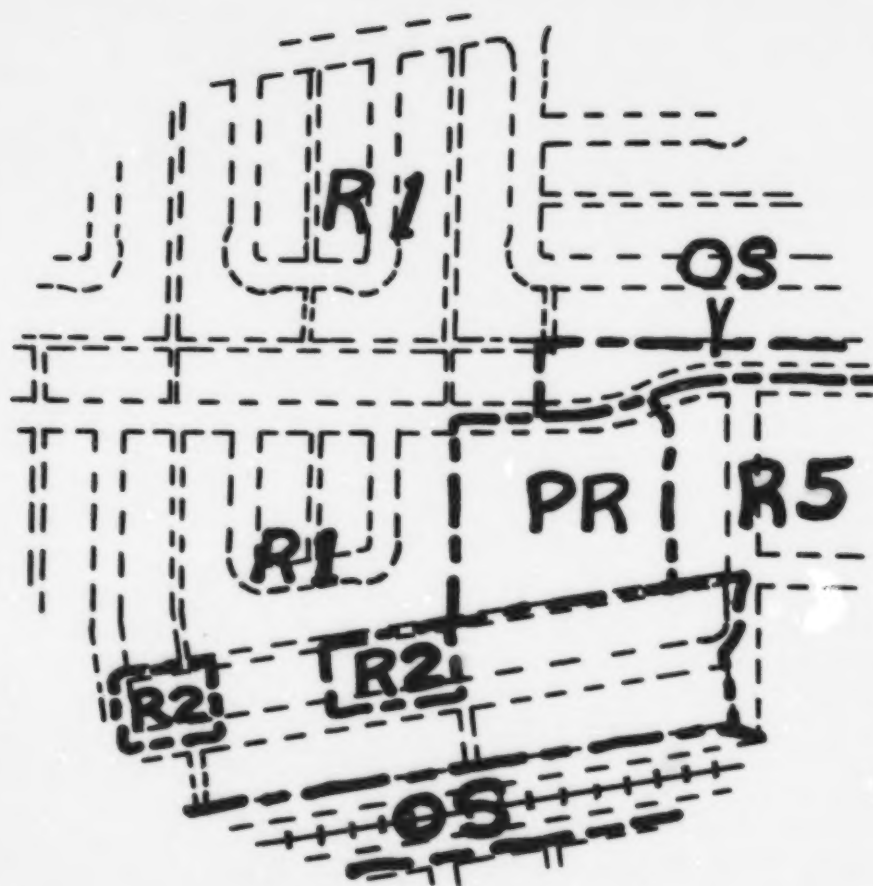
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PLANNING ADMINISTRATION

Adopting & Amending A Zoning By-Law



88-05821/

DEPARTMENT OF MUNICIPAL AFFAIRS
MUNICIPAL ADMINISTRATION - POLICY & PROCEDURE MANUAL

DEPARTMENT	MUNICIPAL AFFAIRS	Classification
BRANCH	Municipal Planning	Directive
SUBJECT	Adoption or Amendment of Zoning By-laws	Cor
AUTHORITY	Planning Act - Sections 38 to 50	P & D - 308 - (D)
APPROVED	John Whiting Branch Director	Revises
CONTACT	John Whiting	P & D - 303 - (P)
		Pages
		26
		Issue Date
		Feb. 29, 1988

BACKGROUND/INTENT

Sections 42 to 50 of The Planning Act provide the authority for a municipality to adopt or amend a zoning by-law. The following procedures are intended to provide assistance in the adoption or amendment process and to supply additional information which may ease this process. It should be remembered that this procedure is intended to explain but not replace The Planning Act requirements.

OPERATING DIRECTION/PROCEDURE

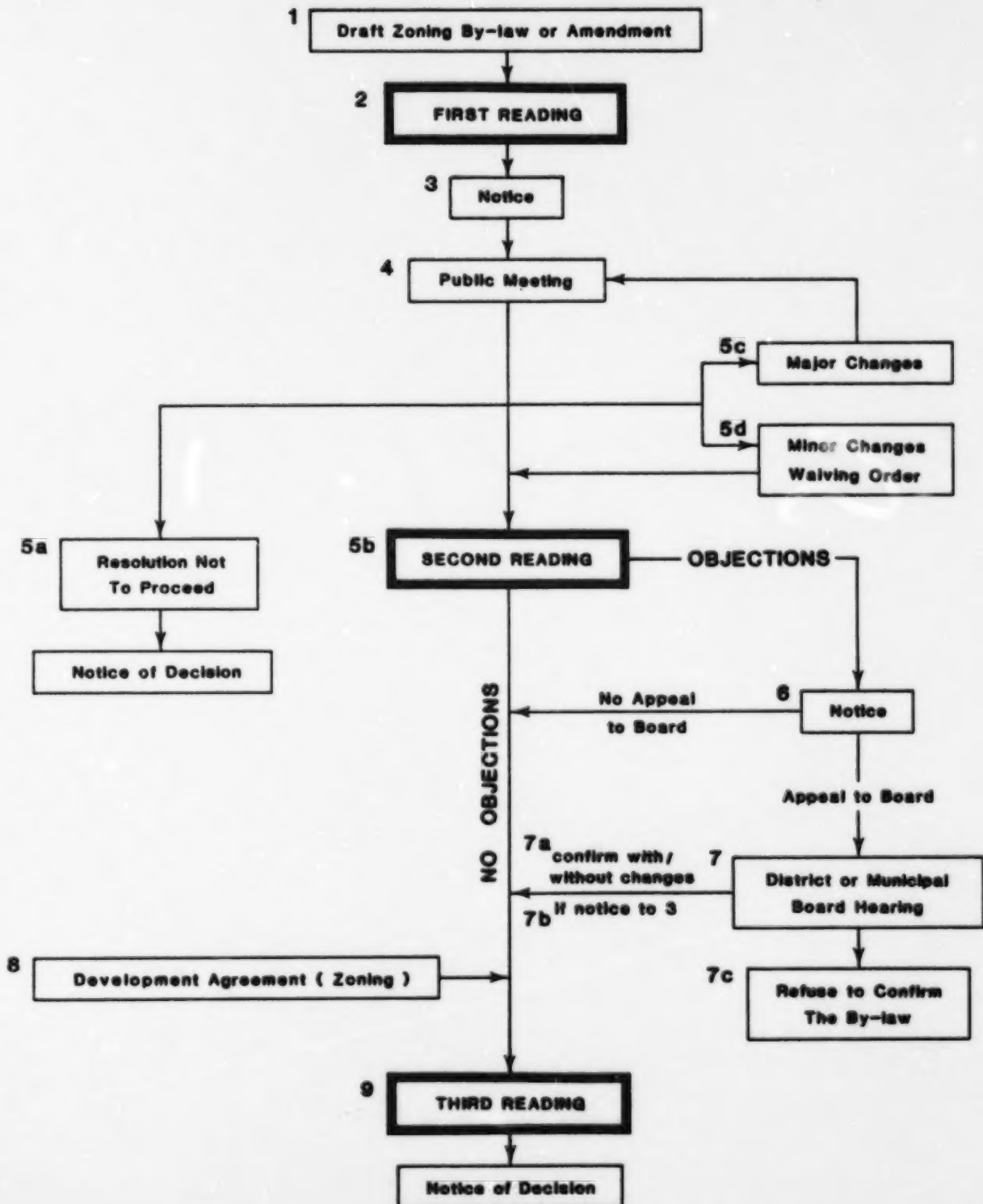
This directive has four parts:

1. a flow chart providing an overview of the adoption/amendment process;
2. a checklist of steps to follow in the adoption/amendment process including references to the appropriate sections of The Planning Act;
3. a more detailed description of the requirements of each step in the adoption/amendment process; and
4. sample notices/affidavits.

All references to legislation are to The Planning Act.

ZONING ADOPTION AND AMENDMENT PROCEDURE

(Sections 38-50 of the Planning Act)



CHECKLIST FOR THE ADOPTION AND AMENDMENT
OF ZONING BY-LAWS

<u>STEP</u>	<u>DESCRIPTION</u>	<u>PLANNING ACT REFERENCE</u>	<u>EXAMPLE</u>
1. ☐	Draft the by-law or amendment	42, 43, 44 & 93	
2. ☐	First Reading	45(1)	
3. ☐	Notice (for rezoning)	45(2)	Pages 7, 8,9&10
	a) Publish notice in newspaper	45(3) & (4)	
	b) Mail notice to	45(3)	
	i) Minister		
	ii) Planning District (if any)		
	iii) Adjacent municipality or district		
	iv) the applicant (if any)		
	v) adjacent property owner (if any), or	45(5), (6) & (7)	
	vi) placard	45(3)	
4. ☐	Public Meeting	45(8),(9),(10) & (14)	
5. ☐	Council Decision		
	a) Resolution not to proceed and Notice of Decision	46(1)	Pages 11 & 12
	b) Second Reading		
	i) with no objections-go to Step 8	46(2) & 45(12)	
	ii) with objections-go to Step 6	46(3),45(12),48(6)&(7)	
	c) Major changes made to by-law - go to Step 3	45(11) & (13)	Pages 13 & 14
	d) Minor changes-obtain Minister's Waiving Order	43(10)	
6. ☐	Notice to Objectors	46(3),(4) & (5)	Pages 15 to 18
	a) no further appeals-go to Step 8	46(6)	
	b) further appeals received-go to Step 7	47	
7. ☐	Municipal Board/District Board Hearing	48(1),(2),(3) & 48(8)	Pages 19 to 24
	a) confirm the by-law with or without changes	48(3)	
	b) confirm the by-law subject to notice	48(4)	
	c) refuse to confirm the by-law	48(4)	
8. ☐	Zoning Development Agreement	49(1),(2) & (3)	
9. ☐	Third Reading and Notice of Decision	46(2),48(5) & 50	

The procedure for adopting a new zoning by-law includes Minister's format approval and once first reading is given the procedure for adopting a new Zoning by-law or amending an existing By-law is essentially the same. An amendment to an existing Zoning By-law may be initiated by Council or by an individual. When an application for amendment is made it is recommended that Council:

- a) make sure the application includes all information necessary to make a decision and includes the applicable fees;
- b) ask the municipality's planner to review and report on the application; and
- c) evaluate the application and decide whether or not to proceed with the amendment.

1. DRAFT THE BY-LAW

A zoning by-law must be enacted within 12 months of the adoption of a development plan unless the Minister permits a longer period (subsection 32(2)).

Before drafting the by-law remember that it must be in a form prescribed by the Minister (subsection 42(2)) and it must have regard to (subsection 44) and generally conform to an adopted development plan or basic planning statement (subsection 42(1)).

The By-law must contain those things described in subsections 42(2), 43(1) and it may contain any of those provisions listed in subsections 43(2) and 43(3). These provisions should be reviewed for a complete understanding of the capabilities of a zoning by-law. Consultation with a planner on by-law content is advised.

2. FIRST READING

The council indicates its intention to enact or amend a zoning by-law by giving it first reading under subsection 45(1).

3. NOTICE

The purposes of the notice is to tell people in a manner that can be understood by the general public what is being adopted or changed and how they may express their views on the proposed by-law. The notice must contain the information described in subsection 45(2). A sample notice is attached on Pages 7, 8, 9 and 10.

The notice shall be given according to subsection 45(3). In determining the 21 days between the publication of the first notice in the newspaper and the public meeting, do not count the meeting date. Where an amendment will change the permitted use of a specific property, note that council must either mail a notice to nearby owners (subsection 45(3)(c)(i)) or post a notice (subsection 45(3)(c)(ii)).

The zoning by-law or amendment must be available for inspection (including all maps and sketches) at the place and times mentioned in the notice. People should be allowed to take extracts from the by-law subject to payment of a reasonable fee to cover copying costs.

4. PUBLIC MEETING

The council shall hold a public meeting at the date, time and place advertised (subsection 45(8)). All representations may be received in one day or, if the council thinks it advisable, they may adjourn and fix a date to continue the meeting. A record shall be kept of this meeting (subsection 45(14)).

At the meeting the council may receive oral or written representations. All those wishing to make representations must be heard and the name and address of all those making presentations should be recorded. The chairman should endeavor to give everyone a fair chance to express their views but it must be remembered that the purpose of the meeting is to receive comments and answer questions on the zoning by-law.

(See sample affidavit on pages 25 and 26)

5. COUNCIL DECISION

As a result of the public meeting and other relevant information considered, council must, within 90 days, choose one of three actions to deal with the zoning by-law:

- a) Council may pass a resolution not to proceed with the by-law. This would be done under subsection 46(1) and Council must send out the required notice. A sample notice is attached on Pages 11 and 12.

or

- b) Council may give the by-law second reading. There are two situations under which the by-law may be given second reading:
 - i) under subsection 46(2) where there are no objections at the public meeting council may give the by-law second reading and third reading (go to Step 8) at the same meeting. Certain notices are required under this subsection. Note that, under subsection 45(1), Council may make minor alterations to the by-law before second reading subject to the approval of the Minister. The notices must mention these changes.
 - ii) under subsection 46(3), where objections are received council may give the by-law second reading after which the objectors must be given a chance to appeal further if they wish (Step 6).
- c) Council may make major changes to the by-law in which case it must be re-advertized (subsection 45(11)) and a new public information meeting held (return to Step 5). A sample notice of amendment to a proposed zoning by-law is attached on Pages 13 and 14.

6. NOTICE TO OBJECTORS

When the Council gives second reading under subsection 46(3) (objections are received) they must provide notice to the Minister and objectors according to subsections 46(3), (4) and (5). A sample notice is attached on Pages 15 to 18. Appeals are made to the Municipal Board if the municipality is not in a Planning District and to the Planning District Board if it is part of a District.

- a) If no further appeals are received the council may proceed with third reading (subsection 46(6)). Go to Step 8.
- b) If further appeals are received a hearing must be held by the Municipal Board if the municipality is not in a Planning District and by the Planning District Board if the municipality is part of a District (section 47). If an appeal is received from the Board of a District or the Council of an adjacent municipality, the hearing must be held by the Municipal Board (subsection 48(6) and (7)).

7. MUNICIPAL BOARD/DISTRICT BOARD HEARING

The Municipal Board or District Board will advertise a hearing under subsection 48(1) and the Council may be represented at that meeting (subsection 48(2)). A sample notice of hearing before the Municipal Board or the Planning District Board is attached on Pages 19 and 20. Within 30 days after the completion of the hearing the Municipal Board or the District Board shall:

- a) Confirm the By-law with or without changes and Council may proceed with third reading only if the by-law conforms to the decision of the Board; or
- b) Confirm by-law with changes subject to notice; or
- c) Refuse to confirm the By-law in which case the By-law dies.

A sample Planning District Board decision is attached on Pages 21 to 24.

8. DEVELOPMENT AGREEMENT (ZONING)

When, pursuant to subsection 49(1) the Council wishes to enter into a development agreement with a landowner who has requested an amendment, this agreement should be completed and registered (subsection 49(2)) prior to third reading of the by-law.

9. THIRD READING

Council may give the zoning by-law third reading immediately after second reading where there is no objection or subject to compliance with any decision of the Municipal Board or the District Board (subsection 48(5)).

UNDER THE PLANNING ACT
THE TOWN OF AJAX
NOTICE OF PUBLIC MEETING

The Council of the TOWN OF AJAX, under authority of The Planning Act, will hold a PUBLIC MEETING at Ajax, Manitoba, at the Town Offices, on the _____ day of _____, 1988, at _____ p.m., at which time and place the Council will receive representations and objections, if any, from any persons who may wish to make same in respect of By-law No. _____, being a by-law to regulate the development and use of land within the Town of Ajax.

A copy of the above By-law No. _____ and supporting material may be inspected by any person between the hours of _____ a.m. and _____ p.m., Monday to Friday, in the Town Offices, at Ajax, in Manitoba.

The general intent of the above noted by-law is to:

- (a) regulate the use of buildings, structures and land,
- (b) regulate location, height, bulk, size and construction of buildings and structures, the size of yards, courts and other open spaces; percentage of a site which may be occupied by a building or structure, and the density of population,
- (c) divide the town into land use zoning districts of such number, shape and area as may be deemed best suited to carry out the provisions of the Town of Ajax Development Plan. These zoning districts generally will prescribe permitted, conditional and accessory uses of lands, buildings and structures,
- (d) provide for the issuance of development permits and provide the procedure to obtain an amendment and the fees to be paid.

This zoning by-law will have application to the whole of the Town of Ajax except lands within Indian Reserve No. _____ and will replace the Town of Ajax Planning Scheme 1970.

May Insert Zoning Map Here

John Doe
Secretary-Treasurer
Town of Ajax

1

UNDER THE PLANNING ACT
NOTICE OF PUBLIC MEETING
Regarding **1A** _____

The Council of **2** _____
under the authority of The Planning Act will hold a PUBLIC MEETING at
3 _____

on **4** _____ at _____ P.M. at which time and place
The Council will receive representations and objections from any persons
who wish to make them in respect of **5** _____

A copy of the above **6** _____
_____ and supporting material may be inspected
by any person between the hours of _____ a.m. and _____ p.m.
Monday to Friday at **7** _____
The general intent of the above **8** _____
_____ is to:

9
Area affected:

10

11 _____

NOTICE OF PUBLIC MEETINGREGARDINGZONING BY-LAW OR PLANNING SCHEME

- (1) Name of town, municipality, etc.
- (1A) Insert the amending "Zoning By-law # _____" or in the case of an amendment to a planning scheme insert the amending "By-law # _____". (reference to amendment)
- (2) Name of town, municipality, etc.
- (3) Address of place of meeting.
- (4) Date and time of meeting (include year).
- (5) "By-law No. 123, being a Zoning By-law of the Town of Ajax," OR "By-law No. 456, being an amendment to The Ajax Zoning By-law No. 123," OR "By-law No. 789, being an amendment to The Ajax Planning Scheme 1970".
- (6) "by-law" or "amendment" (see 5).
- (7) Place, time and days where inspection may be made.
- (8) "by-law" or "amendment" (see 5).
- (9) Set out the general intent of the by-law. Do not be so brief that it is difficult to determine the nature of the by-law.

The intent of a rezoning amendment can be described as follows:

"redesignate the area shown outlined in a bold line on the map below from "R1" One-Family Dwelling District to "C2" Central Commercial District". (use the same terms as in the original by-law)

- (10) Include a map illustrating by named streets or other identifying boundaries the general area within which the land affected is located in the case where the by-law changes the uses or density of specific properties (See 45(2)(c) of The Planning Act). For a text amendment or where the by-law is of general application, describe the area affected by reference to zoning districts or to the whole municipality as the case may be (see 45(2)(d) of The Planning Act).
- (11) Signature and title.

- TIME:
- (a) Must appear in newspaper at least once a week for 2 successive weeks, with the first notice at least 21 days before the public meeting.
 - (b) Must send out notices not later than 14 days before the day fixed for the public meeting.

DISTRIBUTION:

- (a) newspaper (see 45(3)(a) of The Planning Act)
- (b) Minister of Municipal Affairs
- (c) adjacent municipalities and planning districts within 300 feet of subject land (or greater distance as council deems advisable)
 - General Application
 - See Sec. 45(3)(a)
 - 45(3)(b)
- (d) Planning District. (If area affected by by-law is within a Planning District)
- (e) the applicant (if any)
 - In the case of an amendment which changes the permitted use of specific properties, either of the following items shall be added to the above items:
- (f) owners within 300 feet of subject land (i.e. owners as shown on assessment rolls).
 - Specific
 - Application
 - See Sec. 45(3)(c)
- (g) placards posted for at least 2 weeks before the public meeting (See 45(3)(c)(ii) of The Planning Act).

REFERENCE: Section 45 of The Planning Act

1

UNDER THE PLANNING ACT
NOTICE OF RESOLUTION NOT TO PROCEED

NOTICE is hereby given that the Council of the **2**

_____ has by resolution on the _____

day of **3** _____ A.D. 19____, decided not to proceed

further with **4** _____

5

ZONING BY-LAW/PLANNING SCHEME AMENDMENT
NOTICE OF RESOLUTION NOT TO PROCEED

- (1) Name of municipality
- (2) Name of municipality
- (3) Date of resolution
- (4) Insert proposed "By-law No. 123, being a Zoning By-law of the Town of Ajax" OR "By-law No. 456, being an amendment to The Ajax Zoning by-law No. 123"
OR "By-law No. 789, being an amendment to The Ajax Planning Scheme 1970" (reference to amendment)
- (5) Signature, title

DISTRIBUTION:

- a) By mail to Minister of Municipal Affairs and to all persons, who made or filed objections or made representations at the public meeting.
- b) Notice need not be published in newspapers

REFERENCE:

The Planning Act, Section 46(1)

1

Under The Planning Act
Notice of Alteration of Proposed By-law

Notice is hereby given that the Council of **2**
has by resolution on the **3**, proposed to
alter **4**, as follows:

- (a) **5**

(b) _____

(c) _____

A copy of the above **6** and supporting
material, together with proposed alterations and changes, may be
inspected by any person between the hours of **7** A.M. and **8**
P.M. Monday to Friday at **9**.

The council of **10** will hold a Public
Meeting at **11** on **12**
at **13** P.M. at which time and place the Council will
receive representations and objections from any persons who wish to make
them in respect of **14**,
and shall limit his submission to the alteration.

15

NOTICE OF ALTERATION OF PROPOSED BY-LAW

- (1) Name of Municipality.
- (2) Name of Municipality.
- (3) Date of Resolution.
- (4) Insert proposed "By-law No. 123, being a Zoning By-law of the Town of Ajax" or "By-law No. 456, being a proposed amendment to The Ajax Zoning By-law No. 123" or "By-law No. 789, being a proposed amendment to The Ajax Planning Scheme 1970" (reference to amendment).
- (5) Nature of alteration(s) including area affected by proposed alteration.
- (6) Proposed By-law No. _____, e.g. "By-law No. 123" or "By-law No. 456" or "By-law No. 789".
- (7) & (8) Time and days inspection may be made.
- (9) Place where inspection may be made.
- (10) Name of Municipality.
- (11) Address of Place of Public Meeting.
- (12) & (13) Date and Time of Public Meeting.
- (14) Proposed By-law No. e.g. "By-law No. 123" or "By-law No. 456" or "By-law No. 789".
- (15) Signature and Title.

TIME:

- (a) Must appear in newspaper at least once a week for 2 successive weeks, with the first notice at least 21 days before the public meeting.
- (b) Must send out notices not later than 14 days before the day fixed for the public meeting.

DISTRIBUTION:

- | | |
|---|---------------------|
| (a) Newspaper | |
| (b) Minister of Municipal Affairs | |
| (c) adjacent municipalities and Planning Districts within 300 feet of subject land (or greater distance as Council deems advisable) | General Application |
| | Sec. 45(3)(a) |
| | Sec. 45(3)(b) |
| (d) Planning District (if any) | |
| (e) the applicant (if any) | |

In the case of an amendment which changes the permitted use of specific properties, either of the following items shall be added to the above items:

- | | |
|--|----------------------|
| (f) owners within 300 feet of subject land (i.e. owners as shown on assessment rolls) | Specific Application |
| | Sec. 45(3)(c) |
| (g) Placards posted for at least 2 weeks before the public meeting (Sec. 45(3)(c)(ii) of The Planning Act. | |

REFERENCE: Section 45(11), 45(12) and 45(13) of The Planning Act

1

Under The Planning Act
Notice of Action by Council
Regarding **2** _____

Notice is hereby given that on the _____ day of **3**
A.D. 19____, the Council of the **4** _____
gave **5** _____ to **6** _____

7 _____ changes have been made in the
aforesaid **8** _____ since it was given
first reading:

9

Any person who made or filed a representation at the public meeting held
to consider the aforesaid **10** _____
may **APPEAL THE DECISION OF COUNCIL AND FILE A FURTHER OBJECTION** with
11 _____ on or before the _____ day
of **12** _____ A.D. 19____, and shall also send a copy of any such
further objection to the Council of **13** _____ at
14 _____ on or before the above noted
deadline.

15 _____

NOTICE OF ACTION BY COUNCIL
REGARDING ZONING BY-LAW OR PLANNING SCHEME

- (1) Name of town, municipality, etc.
- (2) Fill in the words proposed "Zoning By-law # _____ or "By-law No. _____" as the case may be (see (6) below).
- (3) Date.
- (4) Name of town, municipality, etc.
- (5) Fill in the words "second and third readings" if there are no objections to the By-laws; and fill in the words "second reading" if there are objections to the By-law.
- (6) Name of proposed By-law. For example: "By-law No. 123, being a Zoning By-law of the Town of Ajax" or "By-law No. 456, being an amendment to The Ajax Zoning By-law No. 123" or "By-law No. 789, being an amendment to The Ajax Planning Scheme 1970" (reference to amendment).
- (7) Fill in the words "No" or "The following", whichever is appropriate.
- (8) "By-law" or "Amendment".
- (9) Describe changes made since first reading, if any. If space does not allow, describe on a separate page and refer to it here (see Section 45(11) and 45(12) of The Planning Act).
- (10) "By-law" or "Amendment"
- (11) The Municipal Board
1234 - 405 Broadway
Winnipeg, Manitoba
R3C 3L6
If the municipality is a member of a District, instead of the above, insert the name and address of the District Board.

NOTE: In the case where the Board of a District or the Council of an adjoining municipality files an objection to a Zoning By-law or amendment thereof, the objection shall be filed with The Municipal Board and heard by that Board.

- (12) Last date for receipt of objections, which must be at least 14 days after date of mailing of notice.
- (13) Name of town, municipality, etc.
- (14) Address for receipt of copies of objections by Council.
- (15) Signature and title.

TIME: Must send the notices by registered mail not later than 14 days before the date fixed for the deadline.

DISTRIBUTION:

- a) By registered mail, to those persons who made or filed an objection who appeared and made representations or appeared and filed written representations at the public meeting. If a written representation is signed by several persons, notice need only be sent to a single address.
- b) Notice in newspaper is not necessary.
- c) Send a copy of approved By-law to Minister of Municipal Affairs.

REFERENCE: Sections 46, 47 and 48 of The Planning Act.

1

Under The Planning Act
Notice of Action by Council
Regarding **2**

Notice is hereby given that on the _____ day of **3**
A.D. 19____, the Council of the **4**
gave **5** to **6**

7 changes have been made in the
aforesaid **8** since it was given first
reading:

9

10

NOTICE OF ACTION BY COUNCIL
REGARDING ZONING BY-LAW OR PLANNING SCHEME

- (1) Name of town, municipality, etc.
- (2) Fill in the words proposed "Zoning By-law # _____" or "By-law No. _____" as the case may be (see (6) below).
- (3) Date.
- (4) Name of town, municipality, etc.
- (5) Fill in the words "second and third readings" if there are no objections to the By-laws; and fill in the words "second reading" if there are objections to the by-law.
- (6) Name of proposed By-law. For example: "By-law No. 123, being a Zoning By-law of the Town of Ajax" or "By-law No. 456, being an amendment to The Ajax Zoning By-law No. 123" or "By-law No. 789, being an amendment to The Ajax Planning Scheme 1970" (reference to amendment).
- (7) Fill in the words "No" or "The following", whichever is appropriate.
- (8) "By-law" or "Amendment".
- (9) Describe changes made since first reading, if any. If space does not allow, describe on a separate page and refer to it here (see Section 45(11) and 45(12) of The Planning Act).
- (10) Signature and title.

TIME: Must send the notices by registered mail not later than 14 days before the date fixed for the deadline.

DISTRIBUTION:

- a) By registered mail, to those persons who made or filed an objection who appeared and made representations or appeared and filed written representations at the public meeting. If a written representation is signed by several persons, notice need only be sent to a single address.
- b) Notice in Newspaper is not necessary.
- c) Send a copy of approved By-law to Minister of Municipal Affairs.

REFERENCE: Sections 46, 47 and 48 of The Planning Act.

Under The Planning Act

Notice of Hearing Before 1

Take Notice That an objection to the approval of 2

has been submitted to 3
for its decision in accordance with Section 44(2) of The Planning Act.

And Take Notice that _____⁴ will
sit _____⁵ on _____⁶
_____ at _____⁷ in
order to hear any person who appears and desires to give evidence or
make representations on his own behalf or on behalf of another in the
matter, for or against the said _____⁸

9

NOTICE OF HEARING BEFORE DISTRICT
PLANNING BOARD OR THE MUNICIPAL
BOARD - ZONING BY-LAW AND
PLANNING SCHEME AMENDMENT

- (1) District Planning Board or The Municipal Board, as the case may be.
 - (2) Insert proposed "By-law No. 123, being a Zoning By-law of the Town of Ajax" or proposed "By-law No. 456, being an amendment to The Ajax Zoning By-law No. 123" or proposed "By-law No. 789, being an amendment to The Ajax Planning Scheme 1970" (reference to amendment).
 - (3) District Planning Board or The Municipal Board, as the case may be.
 - (4) District Planning Board or The Municipal Board, as the case may be.
 - (5) Address of Place of Meeting.
 - (6) Date of Meeting.
 - (7) Time of Meeting.
 - (8) Insert proposed "By-law No. 123 of the Town of Ajax", or proposed "By-law No. 456 of the Town of Ajax" or proposed "By-law No. 789 of the Town of Ajax" (see (2) above).
 - (9) Signature and Title.
- TIME: (a) Must send notice by registered mail at least 14 days before the hearing.
- (b) Must make decision within 30 days after the conclusion of the hearing.

DISTRIBUTION:

- (a) By registered mail to those persons who filed objections with the District Board or the Municipal Board, as the case may be.
- (b) By registered mail to the Municipality involved.
- (c) Such notice as the District Board or The Municipal Board, as the case may be, considers adequate to any other person whom it deems should receive notice.
- (d) Notice need not be published in newspapers.

REFERENCE: The Planning Act, Section 48.

THE VERMILION PLANNING DISTRICT BOARD

Box 100, Ajax, Manitoba, R0B 0A0

)
) Order No. 2 1/87
) April 13, 1987

BEFORE: Mr. E.S. Davis, Chairman
 Mrs. S. Jackson, Member
 Mr. A. Shaw, Member
 Mr. G. Green, Member

IN THE MATTER OF
 The Planning Act

-and-

IN THE MATTER OF
 By-law No. 39-86 of
 The Rural Municipality of Ajax

APPEARANCES:

Mr. C.L. Habberdasher, Counsel	- for Mr. Dan Saurette, Applicant to The Rural Municipality of Ajax
Mr. Metro Boychuk, Reeve	
Mr. Tony Cutting, Councillor	
Mr. A.A. Dacosta Secretary-Treasurer	- for The Rural Muni- cipality of Ajax
Mr. Dan Saurette	- Applicant to The Rural Municipality of Ajax
Mr. Max Calvert	- for the Approving Authority
Mr. Bruce Cameron, Planner	- Municipal Planning Branch, Department of Municipal Affairs, Province of Manitoba
Mr. Barry Cairns	- Proponent
Mr. Mark Conroy	
Mrs. Agnes Bennet	
Mrs. Betty Nawryluk	
Mrs. Bea Kaminsky	- Objectors

Pursuant to Section 46 of The Planning Act, Mark and Patricia Conroy, et al, filed with the Board, notices of objection to By-law No. 39-86 of The Rural Municipality of Ajax.

After notice the matter was heard at Ajax, in Manitoba, on Tuesday, April 7, 1987.

Proposed By-law No. 39-86 of The Rural Municipality of Ajax reads, in part, as follows:

THE VERMILION PLANNING DISTRICT BOARD

Box 100, Ajax, Manitoba, R0B 0A0

- 2 -

"1. District Map 1, attached to and being part of The Rural Municipality of Ajax Zoning By-law No. 50-84, as amended, is hereby further amended by rezoning an area located generally north of Provincial Road 665, south of Eagle Bay, east of the road commonly known as River Road Drive and west of Silver River Falls; more particularly described as follows:

'part of River Lot 115, Parish of Minitonas bounded by the north-eastern limit of Road Plan 9543, the eastern limit of Road Plan 1623, the south limit of Plan 40581, and the western limits of Plan 2691 and Drain Plan 578; all plans as registered in the Winnipeg Land Titles Office';

from 'A80' Agricultural District to 'RR' Rural Residential District as shown outlined in a heavy broken line and shaded on the map attached hereto and marked as Schedule 'A' of this By-law.

The area proposed for rezoning is owned by Dan Saurette & Sons Ltd., who propose to subdivide the 19 acre parcel of land in order to accommodate a rural residential development comprised of nine lots (each lot comprised of not less than 2 acres each).

Evidence submitted by Messrs. Calvert and Cameron, Planners, indicated that the subdivision as proposed by the applicant, Mr. Saurette, had been given tentative approval, subject to conditions, by letter dated October 6, 1986, from the Approving Authority. One of the conditions of tentative approval reads:

"A copy of an approved rezoning By-law rezoning the proposed site from 'A80' Agricultural District to 'RR' Rural Residential District."

(refer to Exhibit No. 3)

Further evidence by Messrs. Calvert and Cameron disclosed that the Municipality is governed in its Land Use Policies by a Basic Planning Statement (By-law No. 838, as amended by By-law No. 3111 - refer to Exhibits No. 7, 8 and 9) which designates the subject area as "Rural Residential". The current zoning by-law of the Municipality, in effect prior to the Basic Planning Statement, zones the area as 'A80' Agricultural District. Proposed By-law No. 39-86 has been implemented to enable the zoning of the subject land to comply with the Basic Planning Statement designation.

The Planning act provides as follows:

"Zoning by-law.

32(2) Upon the adoption of a development plan the council of a municipality shall enact a zoning by-law within

- (a) 12 months; or
- (b) such longer period of time as the minister, after consultation with the municipality, may decide.

THE VERMILION PLANNING DISTRICT BOARD

Box 100, Ajax, Manitoba, R0B 0A0

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Effect of adoption of statement.

37(9) Section 32 applies, mutatis matandis, upon the adoption of a basic planning statement.

....

Zoning by-law.

42(1) The council of a municipality may enact a zoning by-law but only where a development plan or a basic planning statement is adopted for the area, and that by-law shall generally conform to the development plan or basic planning statement adopted for the area."

Evidence submitted by Messrs. Boychuk, Cutting and Dacosta on behalf of The Rural Municipality of Ajax indicated that council has given careful consideration to the subdivision application as well as to the proposed rezoning - in fact, the Applicant will be required to enter into a development agreement with the Municipality to provide for, among other municipal concerns, adequate flood protection as required by the Water Resources Department of the Province of Manitoba. It was also stated that no public funds would be spent by The Rural Municipality of Ajax in the development of the proposed subdivision.

Mr. Barry Cairns resides near the subject area and spoke in support of the proposed rezoning.

Mr. Mark Conroy and Mesdames Bennett, Hawryluk and Kaminsky appeared as objectors to proposed By-law No. 39-86. The thrust of their evidence included, inter alia, the following:

1. That the area of the proposed rezoning is prime agricultural land;
2. That the subject property is low-lying and flood-prone, even in non-flood years; and
3. That the "quality of life" for those individuals living in the adjacent rural residential area will be lessened - i.e. increased traffic flow, decreased market values, etc.

Upon consideration of all of the evidence adduced and submissions made, the Board is of the opinion that the objections should not be allowed and that said By-law No. 39-86 ought to be confirmed.

THEREFORE, IT IS ORDERED:

1. That the objections of Mark and Patricia Conroy, et al, to By-law No. 39-86 of The Rural Municipality of Ajax, given second reading on December 22, 1986, BE NOT ALLOWED, and said By-law No. 39-86 BE AND IS HEREBY CONFIRMED.

THE VERMILION PLANNING DISTRICT BOARD

E. S. Davis

Chairman

B. L. Horvath

Secretary

Certified to be a true
and correct copy.

B. L. Horvath

B. L. Horvath,
Secretary

DECISION OF DISTRICT BOARD
REGARDING OBJECTIONS TO BY-LAWS

- (1) Heading - name of District Board, Address, Order number and date.
- (2) Before - name of Board members present at hearing, chairman, quote Act and By-law.
- (3) Appearances - name of persons appearing before the Board.
- (4) Statement of the appeals filed with the Board pursuant to Section 46 of The Act.
- (5) Statement as regards notice given of Board Hearing.

Note: Must give not less than 14 days notice of hearing, in writing, to the persons objecting and to the Municipality and such notice as the District Board considers adequate to any other person whom it deems should receive notice.

- (6) Statement indicating what is contained in the proposed by-law that has a direct bearing on the hearing.
- (7) Important factual argument or information may be summarized and recorded on the "ORDER", for or against the By-law.
- (8) Statement of Board's findings.
- (9) Order - Decisions, recommendations, statement as per Section 48(3) of The Planning Act, i.e. "confirm or refuse to confirm...", or "recommend that council amend the By-law...."

Note: In a recommendation under Clause 48(3)(b) of The Planning Act, the provisions of Sections 45 to 48(8) shall apply unless the Board has in its order authorized council to make the amendment at third reading, either without notice or with such notice as may be stipulated in the order.

Must make a decision within 30 days after the conclusion of the hearing.

- (10) Signatures - chairman and secretary and (seal if any).
- (11) Certification of all copies.

DISTRIBUTION: send notice of District Board's decision (i.e. attach a copy of District Board Order to Letter) to:

- a) the Minister of Municipal Affairs,
- b) those who made representations at the hearing,
- c) the Council.

REFERENCE: The Planning Act, Section 48.

GENERAL CHECK LIST FOR PROOF OF COMPLIANCE
OF PLANNING ACT PROVISIONS

RE: ZONING BY-LAWS & BY-LAWS TO AMEND PLANNING SCHEMES

It is advisable that a complete record always be kept on file as proof of compliance with the provisions of The Planning Act. In any case, if Municipal Board Hearings are involved the Board normally requires proof that the matter is properly before it and thus the material will be readily available to the Board. Also in the event of any court action the material on file will be ready to present to the court.

If there are no objections, the by-law may be given third reading, signed and sealed accordingly and prepare the required number of certified copies. Be sure by-law maps are attached to and marked as being part of the by-law. It is recommended that the maps also be signed and sealed.

Has a copy of the by-law been forwarded to: the Minister, c/o Municipal Planning Branch Office, (and district planner if appropriate)?

An affidavit in effect is a comprehensive list of all of the steps taken and the material available to support the action taken to date. Has the affidavit been completed properly with those sections not applicable being struck off? (or re-type appropriate affidavit)

AFFIDAVIT should include the following (if applicable) all marked appropriately as EXHIBIT "?"

EXHIBIT "A" - Newspaper advertisement (whole tear sheets) with date and name of newspaper

EXHIBIT "B" - Public notice sent to property owners, etc. required if land
by what kind of mail (registered-certified- use change of
first class) and date of mailing subject
and/or property

EXHIBIT "C" - Public notice done by means of placards at
places indicated (list and/or map showing
location of placards) - (if applicable)

EXHIBIT "D" - List of persons served with public notice, including Minister of
Municipal Affairs, Planning District, municipality, applicant.

EXHIBIT "E" - Minutes of Public Meeting

EXHIBIT "F" - Copies of objection(s) (if applicable) or representations.

EXHIBIT "G" - Copy of letter (notice) informing objector(s) of Council's decision
and that they may make further representations to the Municipal
Board/District Board if so desired (if applicable).

EXHIBIT "H" - List of person(s) served with notice as per Exhibit "G"

If a longer period than 90 days is required by Council to make a decision to give 2nd reading to a By-law or if Council wishes to make minor alterations to a proposed By-law, an "order" of the Minister must be obtained.

If it is desired by Council to not proceed with the adoption of a By-law a resolution to this effect must be forwarded to the Minister of Municipal Affairs and persons who filed objections or made representations to Council, advising them of Council's decision.

For specific requirements please refer to The Planning act. If there are any doubts about procedure, please phone Winnipeg 945-2150 and enquire. Together we may be able to help avoid unnecessary delays for developer and municipality concerned.

AFFIDAVIT FOR AMENDING BY-LAWS TO

PLANNING SCHEME OR ZONING BY-LAW

CANADA

IN THE MATTER of first, second and
third reading of By-law No. _____
of the Town of _____

PROVINCE OF MANITOBA

TO WIT:

1. _____ Secretary-Treasurer of the Town of _____
do solemnly declare:

1. THAT notice of the intention of the Council of the Town of _____
to adopt By-law No. _____ was given by insertion of display
advertisements on the _____ and _____ day of _____
19 _____ in the _____ and in the _____
on the _____ and _____ day of _____ 19 _____
which are hereby attached as Exhibit "A" to this my affidavit.
2. THAT public notice as per Exhibit "B" to this my affidavit was sent by _____
mail on the _____ day of _____ 19 _____ in accordance with
the provisions of The Planning Act.

and/or

2. THAT public notice of the intention of the Council to adopt By-law No. _____
was given by means of Placards as per Exhibit "C" in accordance with The
Planning Act and that one week after the posting of same (the placards were
inspected and replaced where necessary) and still on display (one day/two
days) prior to the date of the public meeting.
3. THAT the list of names of persons served with public notice as per Exhibit "B"
is hereby attached as Exhibit "D" to this my affidavit.
4. THAT a copy of the minutes of the Public Meeting of _____ 19 _____
is hereby attached as Exhibit "E" to this my affidavit.
5. THAT there were no objections raised against second and third readings of
By-law No. _____.

OR

5. THAT copies of letters containing objections or representations to Council for
or against second reading of by-law No. _____ are attached as Exhibit "F"
to this my affidavit.
6. THAT copies of letters to objectors or persons making representation informing
them to make further objection or representation to the Municipal
Board/District Board if so desired (if applicable) are hereby attached as
Exhibit "G" to this my affidavit.
7. THAT the list of names of persons served with notice of advisement to make
further objection to The Municipal Board/District Board as per Exhibit "G" is
hereby attached as Exhibit "H" to this my affidavit.

AND I make this solemn declaration conscientiously believing it to be true, and
knowing that it is of the same force and effect as if made under oath and by
virtue of the Canada Evidence Act.

Declared before me at _____
in the Province of Manitoba this _____
day of _____ A.D. 19 _____.

A Commissioner for Oaths in and for the
Province of Manitoba

My Commission expires: _____

(Signature and Seal)